

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REORGANIZATION MEETING
MINUTES**

January 10, 2011

APPROVED 3/7/11

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Reorganization Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

After the Pledge of Allegiance, William Martin called for a moment of silence for the victims of the tragedy in Tucson, Arizona.

3. SWEARING IN OF MEMBERS:

Mr. Martin was sworn in at the Mayor and Council Meeting. Mr. McKoy was sworn in by the Board Attorney.

William Martin - 4 year Term ending 12/31/14

Vernon McKoy, Alt. #1 - 2 year Term ending 12/31/12

4. ROLL CALL:

PRESENT:

Guy Hartman
Christopher Owens
Eric Oakes
Michael Bieri
Raymond Arroyo, Vice-Chairman
William Martin, Chairman
Vernon McCoy (Alt #1)
Matt Ceplo (Alt. #2)

ALSO PRESENT:

David Rutherford, Esq., Board Attorney
Louis Raimondi, Brooker Engineering,
Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT:

Robert Bicocchi (excused absence)

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5. REORGANIZATION MEETING:

NOMINATIONS FOR CHAIRMAN OF THE ZONING BOARD:

David Rutherford, Esq. called for nominations for the position of Chairman of the Zoning Board.

Upon nomination by Mr. Hartman, seconded by Mr. Owens, with no further nominations, **William Martin** was nominated as Chairman of the Zoning Board.

Upon motion of Mr. Arroyo, seconded by Mr. Oakes, all ayes, the Board closed the nominations for Chairman. On roll call vote, all members voted yes.

NOMINATIONS FOR VICE-CHAIRMAN OF THE ZONING BOARD:

Chairman William Martin requested a nomination for the election of a Vice-Chairman:

Upon nomination by Mr. Hartman, seconded by Mr. Oakes, with no further nominations, **Raymond Arroyo** was nominated as Vice-Chairman of the Zoning Board.

Upon motion of Mr. Owens, seconded by Mr. Bieri, all ayes, the Board closed the nominations for Vice-Chairman. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF ATTORNEY FOR THE ZONING BOARD:

Chairman Martin requested a nomination for the appointment of an Attorney:

Upon nomination by Mr. Hartman, seconded by Mr. Arroyo, with no further nominations, **David Rutherford, Esq.** was nominated to continue as Attorney for the Zoning Board.

Upon motion of Mr. Arroyo, seconded by Mr. Oakes, the Board closed the nominations for Attorney for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF PROFESSIONAL ENGINEER FOR ZONING BOARD:

Chairman Martin requested a nomination for the appointment of Professional Engineer for the Zoning Board:

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Upon motion of Mr. Hartman, seconded by Mr. Arroyo, with no further nominations, **Louis Raimondi of Brooker Engineering**, was nominated to continue as Professional Engineer for the Zoning Board.

Upon motion of Mr. Arroyo, seconded by Mr. Hartman, the Board closed the nominations for Professional Engineer for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF PROFESSIONAL PLANNER FOR THE ZONING BOARD:

Chairman Martin requested a nomination for the appointment of a Planner:

Upon motion of Mr. Bieri, seconded by Mr. Arroyo, with no further nominations, **Steve Lydon, Burgis Associates** was nominated to continue as Professional Planner for the Zoning Board.

Upon motion of Mr. Oakes, seconded by Mr. Owens, the Board closed the nominations for Professional Planner, for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF RECORDING SECRETARY:

Chairman Martin requested a nomination for the appointment of a Recording Secretary:

Upon motion of Mr. Hartman, seconded by Mr. Owens, with no further nominations, **Mary R. Verducci** was nominated to continue as Recording Secretary for the Zoning Board.

Upon motion of Mr. Oakes, seconded by Mr. Arroyo, all ayes, the Board closed the nominations for Recording Secretary for the Zoning Board. On roll call vote, all members voted yes.

ADOPTION OF 2010 MEETING DATES:

Upon motion of Mr. Owens, seconded by Mr. Oakes, all ayes on roll call vote, the Board adopted the 2011 Meeting Dates for the Zoning Board as attached.

ADOPTION OF PROCEDURAL RULES & BY-LAWS - Tabled to 2/7/11 for review and adoption on motion of Mr. Owens, seconded by Mr. Oakes, and carried unanimously on roll call vote.

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ADOPTION OF THE ANNUAL REPORT - Tabled to the 2/7/11 meeting.

SWEARING IN OF MEMBERS: Mr. Martin and Mr. McKoy were previously sworn in as reappointed members as stated above.

REGULAR MEETING

6. MINUTES - The Minutes of the 12/6/10, and 12/22/10, were approved as amended on motions made by Mr. Owens, seconded by Mr. Bieri and carried on roll call vote.

7. CORRESPONDENCE:

1. Note from Brian and Laurie Wiese dated 12/7/10 RE: 101 Hurlbut Street;

2. Memo from Burgis Associates dated 12/14/10, RE: Go Green Car Wash;

3. Memo from Burgis Associates dated 12/16/10 RE: CVS;

8. VOUCHERS: A motion to approve vouchers totaling \$3,095.00 and \$606.25 for escrow release was made by Mr. Arroyo, seconded by Mr. Owens, and carried unanimously on roll call vote.

9. RESOLUTIONS:

1. Lock Up - 125 Bergenline Avenue - Mr. Rutherford gave an overview of the Resolution of Approval for the record. A motion for approval was made by Mr. Owens, with second by Mr. Arroyo. There were no further questions, comments or discussions. On roll call vote, Mr. Bieri, Mr. Arroyo, Mr. Hartman, Mr. Owens, and Mr. Martin voted yes. Mr. Oakes. Mr. McKoy and Mr. Ceplo were not eligible to vote.

2. New St. Mark AME Zion Church, 100 Palisade Avenue - Mr. Rutherford gave an overview of the Resolution of Approval for the record. A motion for approval was made by Mr. Bieri, with second by Mr. Owens. There were no further questions, comments or discussions. On roll call vote, Mr. Bieri, Mr. Arroyo, Mr. Oakes, Mr. Owens, Mr. McKoy, and Mr. Martin voted yes. Mr. Hartman and Mr. Ceplo were not eligible to vote.

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3. Porqui Pas, 31 Westwood Avenue - Tabled to 2/7/11 - John J. Lamb, Esq. submitted a marked up copy of the Resolution of Approval with suggestions for additions, which was distributed. His concern was that it does not set precedence and create a non-conforming use. Mr. Lamb gave an overview with his commentary. The word "restaurant", rather than "specialty food", should be used to describe the use. The "D1 variance" reference was evaluated. Board discussion followed. Mr. Rutherford captured the nuances expertly, it was said. The language was clarified as "specialty food store with attributes of a restaurant". The Resolution would be amended and presented in February. Mr. Rutherford would circulate it amongst the Board Members. A motion to table the Resolution to the 2/7/11 to allow for time to amend the Resolution was made by Mr. Oakes, seconded by Mr. Arroyo and carried unanimously on roll call vote.

10. PENDING NEW BUSINESS:

1. Fricke, 25 Emerson Road - Certification of Non-Conformity - Scheduled for 2/7/11;

11. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in.

1. Retro Fitness, 25 Sullivan Street - Variance - Withdrawn by applicant without prejudice;

2. Go Green, 22 Kinderkamack Road, Block 1608, Lot 14 - Nancy Saccente, Esq. represented the applicant. Revised plans were submitted. The engineering plans were revised to 12/13/10 and the architectural plans were revised to 12/10/10. Ms. Nasif, property owner, previously sworn, came forward and testified. Ms. Saccente submitted paperwork from the DEP as Exhibit A8 regarding the removal of the oil tanks, consisting of the permit and the site plan portion describing where the tanks were. Mr. Raimondi asked, and she responded yes that all tanks were covered, and the drainage is tied into the town sewer system.

Charles Olivo, PE, of Stonefield Engineering, continued under oath. Revised plans were submitted. Mr. Olivo described the changes to the plans based on the comments of the Board and its professionals. They also met with Erik Timsak, County

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Planning Board Principal Planner. The Demolition Sheet Site Plan, Sheet 2 of 6 was revised to 12/13/10. There was a request to narrow the driveways. Mr. Timsak agreed with having the driveways along Kinderkamack Road and the landscape island. They are now down to 82.5% impervious coverage on the site. As a result of changing the driveway from a two-way access point to a one-way on Lester, the impervious coverage number was taken down.

Mr. Olivo continued with the lighting. They reconsidered their original lighting analysis. Since there is very limited lighting on Kinderkamack Road, and in terms of providing a safely lit site without impact on the residential community, they would maintain the same lighting as is on the site now. The average foot candle is about 1. Where the lights are converging, it is almost 20-30. Mr. Lydon read from the ordinance. In the interest of moving things along, Mr. Martin asked if they would comply with lighting to the satisfaction of the Board Planner and Engineer. Mr. Lydon asked about security lighting. The pole lights would operate as they do at present, as dusk to dawn lights, Mr. Olivo responded. The wall pack units will be left on. Mr. Martin commented we do not have information on how bright those lights are. Mr. Raimondi was not comfortable with the levels. Ms. Saccente clarified Mr. Olivo's testimony that he was concerned about sufficient lighting for safety.

Mr. Lydon prepared his most recent report 1/6/11, which he reviewed, outlining a number of variances, including rear yard setback, impervious coverage, side yard landscaped buffer, parking stalls, driveways within 50' of curb return of an intersection, and the number of free-standing signs. Mr. Olivo responded to the sidewalk comments and recommendations for landscaped rain gardens along Lester, as raised by Mr. Lydon. The sidewalk would be subject to the County's approval. The agreement with the County based on initial consultations, is that applicant would not have to install a full sidewalk, since the County will be installing part of the sidewalk in connection with its plan on Kinderkamack Road. Mr. Raimondi noted it would be a long time before they did that and asked if they gave a timetable. They had not, Mr. Olivo indicated. As for sidewalks along Lester and Kinderkamack, Mr. Martin suggested taking this under advisement and postpone discussion at this time, since there is going to be a major improvement.

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Mr. Raimondi prepared his most recent report on 1/4/11 and addressed his comments. He agreed with Mr. Lydon's concept as to rain gardens, but felt the 6" opening should be closed. Mr. Olivo indicated he would work with Mr. Raimondi as to same. The area of the property in question is approximately 17,865 sq. ft. Mr. Raimondi commented further. Mr. Olivo noted the number will be verified. Mr. Raimondi continued with comments regarding the site plan sheets by Stonefield Engineering. Mr. Olivo stated they must make a full application to the County. Parking lot striping was discussed next. The witness also suggested utilizing cones with minimal striping/markings. Grading and drainage needs to be noted, Mr. Raimondi said, to see how far the runoff has to travel. Someone from the car wash will be directing and maintaining the lanes. Mr. Raimondi asked what type of chemicals were used. Biodegradable detergents were used. Mr. Raimondi suggested this be reviewed. Mr. Olivo said they would seal all the cracks on the site. All details could be worked out directly with Mr. Raimondi and Mr. Lydon. There were no further questions of the applicant's engineer from the Board and none from the public. A photograph showing the conditions of the site was taken in early October 2010, marked A9.

Paul Grygiel, Professional Planner, Hoboken, NJ, was sworn in, qualified and accepted. Mr. Grygiel addressed Mr. Lydon's report. He testified that he was familiar with the site and what is proposed, giving his opinion. A number of the properties in the area are vacant, due to the removal of uses here and nearby. The applicant has made a number of important changes throughout the application. They reduced the impervious coverage and there were certain green benefits. As for the relief being sought, Mr. Lydon has a detailed outline of the variance, to which he pointed out key facts. Specifically, he concluded, they need a use variance. The positive criteria includes special reasons, as this site is particularly suited for a waterless car wash for a number of reasons. The site is on a County road and can handle the traffic. This zone is very appropriate for this use. There are some constraints, i.e., the site is relatively small. Mr. Grygiel addressed the negative criteria. The Master Plan and Zoning Ordinance do not permit this use. This is a very unique use. A waterless car wash would not fit anywhere. Since this zone permits automotive, this use would be well-suited. He feels the positive and negative criteria are met.

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Moving on, Mr. Grygiel stated there are six different non-conforming conditions, four of which are pre-existing, with no negative impacts. As for free-standing signs, there is one on the ground and two additional. He did not think there would be any negative impact on the Master Plan and Zoning Ordinance. Mr. Lydon questioned the witness asking if this was a new use. Mr. Grygiel had not heard of this use previously. The reference to green has really grown in the last four to five years. Adding the rain gardens would create a desirable, visual effect. Mr. Arroyo questioned the applicant. The use is not specifically prohibited, Mr. Grygiel agreed. There were no further questions or comments. Ms. Saccente's presentation was complete and she hoped the Board would grant the variances including the D1 use variance.

The matter was opened to the public. Bernard Torracco, River Vale, NJ, came forward. He asked about drainage, which was previously addressed. Ms. Saccente and Mr. Martin clarified the testimony given in this respect. Mr. Torracco did not believe a car would be cleaned without soap and hot water. There should be a provision prohibiting the applicant from turning this into a hand car wash. He felt this concept was tried in NJ before and failed. Mr. Martin deferred to Mr. Rutherford, who advised it was not up to the Zoning Board to analyze this, and they would vote on the application as presented.

There were no further comments from the public, and the public portion of the application was closed. Mr. Arroyo gave an overview stating there were many positive aspects. Mr. Martin agreed, stating he liked the rain garden concept. Mr. Hartman had positive comments as well.

A motion for approval was made by Mr. Hartman, with conditions as stated, and seconded by Mr. Arroyo. The conditions were enumerated by Mr. Rutherford. Applicant is to comply with the Borough Planner and Engineer's reports dated 1/6/11 and 1/4/11 respectively; the lighting plan would be amended to bring them in compliance with the ordinance, or as close thereto as reasonably possible to the satisfaction of the Board Engineer and Board Planner; that the rain gardens be installed, and subject to County approval. With respect to the sidewalks, Mr. Martin asked the Board for opinions. Specifically, the use would be described as a waterless, hand car wash with the granting of a D1 variance. The Board discussed the sidewalk. Mr. Hartman

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suggested extending it to the corner. Mr. Raimondi asked for the distance of the non-concrete area on Lester. They would complete any missing sidewalks. There were no further questions, comments or discussions. On roll call vote, Mr. Bieri, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes. Mr. McKoy was not eligible to vote.

3. Wiese, 101 Hurlbut Street - Withdrawn by applicant;

4. DePaola, 112 Prospect Avenue - Certification of Non-Conformity - Scheduled for 2/7/11;

5. CVS-Jefferson and Broadway - Signage - Scheduled for 2/7/11;

12. DISCUSSION: None

13. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:10 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary